

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ADRIAN HANNI,)	CASE NO. 1:10 CV 1271
)	
Petitioner,)	
)	
v.)	JUDGE DONALD C. NUGENT
)	
KEITH SMITH, Warden,)	Magistrate Judge Greg White
)	
Respondent.)	<u>MEMORANDUM OPINION</u>

This matter is before the Court on the Report and Recommendation issued by Magistrate Judge Greg White (Docket #12), recommending that the Request for Voluntary Dismissal of Habeas Petition filed by Petitioner Adrian Hanni (Docket #9) be granted. No objections to the Report and Recommendation have been filed.

Standard of Review for a Magistrate Judge's Report and Recommendation

The applicable district court standard of review for a magistrate judge's report and recommendation depends upon whether objections were made to the report. When objections are made to a report and recommendation of a magistrate judge, the district court reviews the case *de novo*. FED. R. CIV. P. 72(b) provides:

The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

The text of Rule 72(b) addresses only the review of reports to which objections have been made; it does not indicate the appropriate standard of review for those reports to which no objections have been properly made. The Advisory Committee on Civil Rules commented on a district court's review of *unopposed* reports by magistrate judges. In regard to subsection (b) of Rule 72, the advisory committee stated: "When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." FED. R. CIV. P. 72 advisory committee's notes (citation omitted).


The U.S. Supreme Court stated in *Thomas v. Arn*, 474 U.S. 140, 150 (1985): "It does not appear that Congress intended to require district court review of a magistrate judge's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings."

Conclusion

This Court carefully reviewed the Magistrate Judge's Report and Recommendation. The Magistrate Judge thoroughly and exhaustively reviewed Petitioner's Request for Voluntary Dismissal of Habeas Petition. The Court hereby agrees with and adopts the findings of the Magistrate Judge as its own.

The Report and Recommendation issued by Magistrate Judge White (Docket # 12) is hereby ADOPTED. Petitioner's Request for a Voluntary Dismissal of Habeas Petition (Docket #9) is hereby GRANTED. Petitioner's Habeas Petition is hereby DISMISSED WITHOUT PREJUDICE.

IT IS SO ORDERED.


DONALD C. NUGENT
United States District Judge

DATED: February 10, 2011